

Chief’s Address To The Nation

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surety loan amount has the potential to make larger economic development projects more accessible to small businesses, including tribally-owned small businesses.

II. Title II: Putting Workers Back on the Job While Rebuilding & Modernizing America

A. Subtitle A -Returning Heroes & Wounded Warriors Work Tax Credits. This subtitle amends paragraph three of section 51(b) and 52(c) of the Internal Revenue Code (IRC), creating additional guidelines for tax credits to qualified veterans and tax exempt employers. This subtitle also adds a paragraph to section 51(d) of the IRC to outline cases in which veterans will be regarded as certified.

Implications for Indian Country

Compared to any other ethnic groups, historically, American Indians and Alaska Natives have the highest record of military service per capita. These tax credits could benefit a large portion of the over 160,000 Native veterans today, as well as encourage more tax-exempt employers to hire them. Considering the high per-capita figure of Native people who have served in the military, it is important that tribal agencies be recognized as “designated local agencies” with the authority to identify and certify veterans.

B. Subtitle B – Teacher Stabilization

The teacher stabilization section provides funds to states to prevent teacher layoffs and support the creation of additional jobs in public early childhood, elementary, and secondary education in the 2011-2012 and 2012-2013 school years.

Implications for Indian Country

Tribes and tribal education departments are not eligible for direct funding. There are currently 565 federally recognized tribes, over 200 of which have tribal educational departments. The Secretary of Education will reserve up to \$150 million (one-half of one percent of available funding) to provide assistance to Bureau of Indian Education (BIE) schools. The BIE-funded education system serves 48,000 Indian students in 170 elementary and secondary schools across 23 states. Indian students will benefit through the program through the public school system – SEA and LEA funding. American Indian and Alaska Native students make up 1.2% of K-12 public school students nationally. About 90% of all Indian students attend regular public schools and 8% attend schools administered by the BIE.

C. Subtitle C

First Responder Stabilization

Attorney General to carry out a competitive grant program as authorized to provide \$5 billion in funding to States and localities to support hiring, rehiring, and retention of law enforcement officers and other first responders.

Implications for Indian Country

Indian tribal governments are not expressly mentioned in this subtitle of the Act, however they are listed as eligible entities under the underlying Acts – the Crime Control and Safe Streets Act and the Fire Prevention and Control Act – thus eligible for the \$5 billion in funding.

D. Subtitle D – School Modernization

Subtitle D provides assistance for the modernization, renovation, and repair of elementary and secondary school buildings in public school districts across America in order to support the achievement of improved educational outcomes in those schools.

Implications for Indian Country

Over 200 tribes currently operate tribal educational departments, and they will not be eligible for funding. Indian students will benefit through the program through the public school system – SEA and LEA funding. American Indian and Alaska Native students make up 1.2% of K-12 public school students nationally. About 90% of all Indian students attend regular public schools and 8% attend schools administered by the BIE. The backlog for BIE school construction currently exceeds \$2 billion. Many BIE school buildings do not meet basic standards necessary to assure student safety and student success. Asbestos floor tiles are present in more than 90 of the BIE’s schools. Of the 4,495 education buildings in the BIE inventory, half are more than 30 years old and more than 20 percent are older than fifty years. On average, BIE education buildings are 60 years old; while, 40 years is the average age for public schools serving the general population. 65 percent of school administrators report the physical condition of one or more of their school buildings as inadequate. BIE school will receive provide \$125 million (one-half of one percent of available funds) to Bureau of Indian Education (BIE) schools. The BIE-funded education system serves 48,000 Indian students in 170 elementary and secondary schools across 23 states. Additionally, the American Jobs Act will provide \$12.5 million (0.25 percent of available community college modernization

grants) to be shared between Tribally Controlled Colleges and Universities (TCU) and outlying areas (Virgin Islands, Guam, American Samoa and the Commonwealth of the Northern Mariana Islands). More than 30 tribal colleges serve 30,000 students who represent more than 250 tribes from across the U.S., Mexico, and Canada.

E. Subtitle E – Immediate

Transportation Infrastructure Investments

The Indian Reservation Roads (IRR) Program addresses transportation needs of tribes by providing funds for planning, designing, construction, and maintenance activities. The program is jointly administered by the Federal Highway Administration. Federals Lands Highway Office and the Bureau of Indian Affairs in accordance with an interagency agreement.

Implications for Indian Country

310 million in formula funding for Indian tribes. The purpose of the Tribal Transit Program is: (1) to enhance public transportation access on and around Indian reservations in non-urbanized areas; (2) to assist in development, maintenance, improvement, and (3) use of public transportation systems on and around Indian reservation.

Implications for Indian Country

\$7.5 million directly designated for Indian tribes

F. Subtitle F - Building and Upgrading Infrastructure for Long-Term Development

This section creates the American Infrastructure Financing Authority (AIFA), which will be a wholly-owned government corporation that will provide direct loans and loan guarantees to facilitate investment in economically-viable infrastructure projects of regional or national significance. Infrastructure projects include transportation, water and energy sectors. Rural Infrastructure projects eligible for assistance shall cost at least \$25,000. (Other projects that are eligible shall cost at least \$100,000). The amount of a direct loan or loan guarantee shall not exceed the lesser of 50 percent of the reasonably anticipated eligible infrastructure project costs or, the amount of senior project obligations.

Implications for Indian Country

While infrastructure needs in Indian Country are well established, and are in the aggregate, comparably greater than other governmental entities, tribal governments are not expressly mentioned in eligibility requirements, program design, or implementation in this subtitle. Tribes may be involved in some features of this section by implication. While current tribal government involvement in federal direct loans and loan guarantee programs is small, it is likely to grow through time as many tribes increase their governing capacity and capital for infrastructural improvements for their peoples, surrounding communities and regions. Tribes should be provided the option of building infrastructure through this mechanism in recognition of their growing capacity.

G. Subtitle G – Project Rebuild

Project Rebuild would provide investments to create construction jobs to assist in rehabilitating and refurbishing vacant and foreclosed homes and businesses. The program would bring in expertise and capital from the private sector, focus on commercial and residential property improvements, and expand innovative property solutions.

Implications for Indian Country

Tribes are not listed as eligible entities

H. Subtitle H – National Wireless Initiative

Establishment of Public Safety Broadband Corporation the Public Safety Broadband Corporation (PSBC), which will be responsible for the establishment of a nationwide interoperable public safety wireless broadband network. The PSBC will consult and coordinate with public safety officials at the State, local, and tribal levels, and with federal entities where appropriate, to oversee a nationwide public safety network.

Implications for Indian Country

This has the potential for beneficially impacting Indian Country and improving EMS service response to and on tribal lands that would utilize a national interoperability public safety network. The section also acknowledges that nonfederal appointees to the Board of Directors for the PSBC should have an understanding of tribal governments and their interests are a reaffirmation of tribal sovereignty.

Incentive Auction Authority

The Act amends the Communications Act of 1934 to create the Incentive Auction Relocation Fund (IARF) Section and will receive deposits from a newly created Public Safety Trust Fund (Section 297 of 2011 Jobs Act). This section also authorizes the FCC to hold incentive auctions where non-government holders of spectrum relinquish their licenses and receive a portion of auction

proceeds.

Implications for Indian Country

Tribal communities are already the lowest shareholders of licenses to spectrum. There are only 43 tribally owned and operated radio stations in existence in the country. These radio stations provide important governmental access and announcements, language and cultural revitalization, and public safety information. Tribal communities holding license to spectrum for operation of their radio services would surely be hesitant to relinquish their licenses for participation in an incentive auction system. The Public Safety Trust Fund (PSTF) shall be used to disburse funds to those licensees that relinquished spectrum for an incentive auction. The PSTF shall also be used to fund the State and Local Implementation Fund – \$200 million deposit, and the PSBC - \$6.45 billion deposit. Funds from the PSTF shall also be utilized to conduct public safety research and development by the National Institute of Standards and Technology (see section 296 for additional information).

Implications for Indian Country

While tribes may be reluctant to participate in an incentive auction, but since the PSTF will be used to fund the State and Local Implementation Fund this could prove beneficial to Indian Country. The State and Local Implementation Fund will provide funding for the State and Local Implementation Grant Program. Grants from this program will be utilized for the planning and deployment of infrastructure associated with a nationwide public safety interoperable network. It is specifically mentioned that tribal jurisdictions will be eligible for these grants – provided that issuances of these grants to the states are forwarded to tribal jurisdictions.

State and Local Implementation Grant Program

State and Local Implementation Grant Program (SLIGP) shall make grants to states for the provision of assistance to state, regional, tribal, and local jurisdictions. These grants will be utilized for the planning and deployment of infrastructure associated with a nationwide public safety interoperable network.

Implications for Indian Country

These grants will be distributed first to the states, which will then provision them to state, regional, tribal, and local jurisdictions. This could benefit Indian Country if the states follow through with utilizing these grants for the provision of assistance for planning and deployment of infrastructure in tribal jurisdictions.

FCC Report on Efficient Use of Public Safety Spectrum

The FCC shall have to conduct a report on the efficient use of public safety spectrum. The report will provide recommendations for more efficient usage of public safety spectrum and will be presented before the Senate Committee on Commerce, Science, and Transportation, and the House Committee on Energy and Commerce.

Implications for Indian Country

Although not specifically mentioned, tribes could benefit from these reports if they find that improvements could be made for more efficient use of public safety spectrum on tribal lands.

III. Title III: Assistance for the

Unemployed and Pathways Back to Work

A. Subtitle A - Supporting Unemployed Workers

This section provides for the extension of Emergency Unemployment Compensation and certain Extended Benefits and establishes the Self-Employment Assistance program. It also reestablishes the “Reemployment NOW” Program, which would facilitate the reemployment of individuals receiving emergency unemployment compensation, and creates a Short-Time Compensation Program to support reduced employee hours in lieu of layoffs and compensation to those employees whose workweeks have been reduced.

Implications for Indian Country

Since these programs are administered through the State, it is vital that tribes partner with their local State agencies to ensure that American Indians and Alaska Natives receive these benefits. Tribes should begin assessing their respective State plans to guarantee tribal inclusion, as well as advocate for tribal representation on State and local workforce boards. There is a provision that requires individuals receiving emergency unemployment compensation to participate in State reemployment services and activities, unless the State agency determines there is justifiable cause for the failure to participate. These services are specifically designed to assist and train individuals, but tribal members may be limited to these services if they are not easily accessible.

B. Subtitle B - Long-Term

Unemployed Hiring Preferences

Section 351, of the Act will encourage employers – with a maximum tax credit of \$4000 – to hire those workers who have been unemployed for at least six months. Additionally this section authorizes the Secretary of Treasury to provide alternative methods for certifying an individual unemployment status.

Implications for Indian Country

Tribes are eligible entities for this section, just as they are eligible for other Work Opportunity Credits. This is another program tribes can target during their recruitment and hiring process as long as they are willing to pay or incur “qualified first-year wages” and submit the proper forms.

C. Subtitle C – Pathways Back to Work Act

The Pathways Back to Work Act of 2011 is designed to expand job opportunities for low-income adults and youth by supporting subsidized employment opportunities, summer and year-round youth employment, and work-based training and education programs. This program reserves tribal set-asides for Native American programs under section 166 of the Workforce Investment Act of 1998.

Implications for Indian Country

Tribal communities suffer from some of the highest unemployment rates in the Country. This program offers much needed support in the form of a specific reserve of funding for Native American programs that were created under the Workforce Investment Act (WIA) of 1998. This funding will provide subsidized jobs for tribal members as well as summer and year-round employment for Native youth. The program also provides competitive grants to increase job training in local communities. Tribes or tribal organizations that are eligible to apply as a Native American program grantee of the WIA are eligible to apply individually or in partnership with other eligible entities, which includes tribal colleges and universities.

D. Subtitle D –

Fair Employment Opportunity Act

The purpose of this Act is to (a) prohibit the employers and employment agencies from disqualifying an individual from employment opportunities because of that individual status as unemployed; (b) prohibit employers and employment agencies from publishing or posting any advertisement or announcement for an employment opportunity that indicates that an individual status as unemployed disqualifies that individual for the opportunity; and (c) eliminate the burdens imposed on commerce due to the exclusion of such individuals from employment.

Implications for Indian Country

This Act fully provides the same protection to American Indians and Alaska Natives against unemployment discrimination. Since many tribes have high rates of unemployment, it will assist tribal members as they seek job opportunities.

IV. Title IV – Offsets

The bill also includes several offsets to cover the cost of the jobs provisions, such as a 28% limit on itemized deductions and some exemptions for families earning over \$250,000. This change alone is projected to raise about \$400 billion over ten years. Another offset proposed would be to tax carried interest, a type of income to some hedge fund managers, as ordinary income rather than at the lower rate for capital gains, which would raise approximately \$18 billion. A third offset would include repealing oil subsidies for a total of \$40 billion.

V. Section 4: Buy American

Funds appropriated or made available throughout the Act used for the construction, alteration, maintenance, or repair of a public building or work shall only utilize iron, steel, and manufactured goods that are produced in the United States of America. The only exemptions are if the head of a Federal department or agency finds that: A) It would be inconsistent with the public interest; B) Iron, steel, and manufactured goods are not produced in sufficient quantities or of satisfactory quality; or C) The cost of using these materials would increase the cost of the overall project by more than 25%.

Implications for Indian Country

Although there are no specific mentions of “Buy Indian”, this section could be interpreted to incentivize the purchase of manufactured goods produced by Indian tribes in the United States for projects funded by the 2011 American Jobs Act. However, these manufactured products produced by tribal communities would be subject to the aforementioned exceptions to the rule – must be consistent with the public interest, must be produced in sufficient quantities of satisfactory quality, and purchase of these materials must not increase the cost of an overall project by more than 25%.

Sincerely,

George Thurman, Principal Chief

